IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 10596 of 2007

DATE OF DECISION: 19.7.2007

Naurang Rai

…Petitioner

Versus

Punjab National Bank and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Baljit Puri, Advocate,
for the petitioner.

JUDGMENT

M.M. KUMAR, J.

This petition filed under Article 226 of the Constitution prays for issuance of a writ in the nature of mandamus directing the respondents to release sale deed dated 11.2.1974, which was submitted before the Branch Manager, Punjab National Bank-respondent No. 3 at the time of grant of loan to M/s Narain Chemical Fertilizer Ltd., Abohar, wherein the petitioner stood as a Guarantor. The petitioner has claimed the aforementioned relief in view of the fact that a supplementary agreement dated 8.10.2004 (P-2) has been entered into between the petitioner and the respondents. As per the said agreement the petitioner was required to deposit Rs. 9 lacs whereas he has deposited Rs. 10 lacs in total. The petitioner has also claimed return of excess amount of Rs. 1,00,000/- along with interest. It is also relevant to notice that the petitioner has also sent a legal notice dated 28.3.2007 (P-6) to the respondents.

We have heard the learned counsel for the petitioner at some length and perused the paper book.

Before disposing of this writ petition we would refer to the views of Hon'ble the Supreme Court in the case of **Salem Advocate Bar Association v. Union of India, (2005) 6 SCC 344**. In paras 38 and 39 of the judgment it has been required that whenever notice under Section 80 C.P.C. or under any similar provision is sent then it is mandatory on the part of State or Central Government or other authorities to send reply to such notice. It is well settled that before seeking a direction or a writ of mandamus, a demand justice notice is required to be served on the respondents as has been done in the present case. The petitioner had sent a legal notice, dated 28.3.2007 (P-6), to which no reply is stated to have been received. It has also been observed by Hon'ble the Supreme Court that in cases where such like notice has not been replied then cost is required to be imposed. Therefore, without going into the merits of the case, we dispose of the writ petition at this stage with a direction to the respondents to take a decision on the legal notice dated 28.3.2007 (P-6) by passing a speaking order within a period of one months from the date of receipt of a certified copy of this order.

Petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

July 19, 2007
Pkapoor